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SERVICE DATE - NOVEMBER 5, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-156 (Sub-No. 23X)

DELAWARE AND HUDSON RAILWAY COMPANY, INC. D/B/A CANADIAN PACIFIC
RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN ALBANY COUNTY, NY

Decided: November 3, 2003

Delaware and Hudson Railway Company, Inc., d/b/a Canadian Pacific Railway Company (D&H) filed a notice of exemption under 49 CFR 1152 Subpart F-Exempt Abandonments to abandon a 9.14 +/- mile portion of railroad known as the Albany Main or the Voorheesville Running Track, between milepost 10.94 +/- and milepost 1.8 +/- in Albany County, NY. Notice of the exemption was served and published in the Federal Register on June 16, 2003 (68 FR 35774-75). The exemption was scheduled to become effective on July 16, 2003.

By decision and notice of interim trail use or abandonment (NITU) served July 8, 2003, the proceeding was reopened, and the exemption was made subject to interim trail use/rail banking and public use conditions¹ and the conditions that D&H shall: (1) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f; (2) comply with the requirements of the New York Department of State, Division of Coastal Resources, prior to any salvage activities; and (3) contact the New York State Department of Environmental Conservation, Division of Environmental Permits, Region 4, concerning possible impacts on water quality and any water quality permitting requirements prior to any salvage activities.

The Board's Section of Environmental Analysis (SEA) has now been informed by D&H and the New York State Office of Parks, Recreation and Historic Preservation (NY SHPO) that the condition requiring compliance with the section 106 process has been fulfilled. The NY SHPO has determined that the proposed abandonment will have no effect upon cultural resources in or eligible for inclusion in the National Register of Historic Places. Therefore, SEA recommends that the section 106 historic preservation condition imposed in the July 8 decision and notice be removed. Accordingly, the

¹ The trail use negotiation period and the public use condition are scheduled to expire on January 12, 2004.

proceeding will be reopened and the previously imposed historic preservation condition will be removed.²

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the section 106 historic preservation condition imposed in the July 8, 2003 decision and notice is removed.
3. This decision is effective on its date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

² The two other environmental conditions imposed in the July 8 decision and notice remain in effect.